

# Disciplinary and Other NASD Actions

## REPORTED FOR MAY

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this Notice is current as of the end of March 2007.

### Firms Fined, Individuals Sanctioned

Amerifinancial (CRD #130623, Boca Raton, Florida) and Anthony Joseph Fareri (CRD #4176775, Registered Principal, Lighthouse Point, Florida) submitted an Offer of Settlement in which the firm was censured and fined \$30,000, of which \$25,000 was joint and several with Fareri, and \$5,000 was joint and several with another individual. Fareri was suspended from association with any NASD member in any capacity for one year. The fine must be paid before Fareri reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the allegations, the firm and Fareri consented to the described sanctions and to the entry of findings that the firm, acting through Fareri, commenced a private placement offering and participated in municipal securities transactions contrary to its NASD membership agreement. The findings stated that the firm did not file an application for approval to engage in new lines of business, including private placement offerings and municipal securities transactions, even though these were material changes in the firm's business operations. The findings also stated that the firm, acting through Fareri, failed to adopt, maintain and enforce an adequate supervisory system regarding private placement transactions and the maintenance of internal communications. The findings also included that the firm, acting through an individual, conducted a securities business without maintaining its required minimum net capital. NASD found that Amerifinancial failed to timely create and implement its business continuity plan.

Fareri's suspension in any capacity is in effect from March 19, 2007, through March 18, 2008. (NASD Case #E072004054601)

GunnAllen Financial, Inc. (CRD #17609, Tampa, Florida), Richard Mark Nummi, (CRD #2540066, Registered Principal, Land O Lakes, Florida), Brian Edward Sanders (CRD #2743309, Registered Principal, Wading River, New York) and Stephen Irvin Saunders IV, (CRD #2873747, Registered Principal, Tampa, Florida) submitted an Offer of Settlement in which the firm was fined \$100,000, of which \$45,000 is joint and several with Saunders, \$27,500 of which is joint and several with Nummi, and \$17,500 of which is joint and several with Nummi and Sanders. Nummi and Saunders were suspended from association with any NASD member in any principal capacity for 60 days. Sanders was suspended from association with any NASD member in any principal capacity for 10 business days. Without admitting or denying the allegations of the complaint, GunnAllen, Nummi, Sanders and Saunders consented to the described sanctions and to the entry of findings that the firm, acting through Nummi, failed to establish and maintain a supervisory system, and failed to establish, maintain and enforce written supervisory procedures reasonably designed to provide a system of supervision for registered representatives with disciplinary histories of repeated customer complaints, disciplinary actions and/or arbitrations. The findings stated that the firm, acting through Nummi, failed to establish and maintain a supervisory system; failed to establish, maintain and enforce written supervisory procedures reasonably designed to prevent and detect unauthorized trading; failed to enforce the firm's written procedures relating to telecommunications; and permitted a registered representative to solicit an individual by telephone after the individual had requested to be placed on the firm's "do not call" list. The findings also stated that the firm, acting through Saunders, permitted an individual whose registration was CE Inactive to effect customer securities transactions. The findings also included that the firm, acting through Saunders, failed to report, and failed to report timely, customer-related reportable matters as NASD Rule 3070 requires, and failed to timely update Uniform Applications for Securities Industry Registration or Transfer (Forms U4) or Uniform Termination Notices for Securities Industry Registration (Forms U5) with respect to customer complaints or arbitrations against registered representatives. NASD found that Sanders failed to reasonably supervise registered representatives in a branch office of the firm to prevent and detect unauthorized trading.

Nummi's suspension in any principal capacity is in effect from March 19, 2007, through May 17, 2007. Sanders' suspension in any principal capacity was in effect from April 2, 2007, through April 16, 2007. Saunders' suspension in any principal capacity is in effect from April 2, 2007, through May 31, 2007. (NASD Case #E072004006101)

Newwest Securities Corporation (CRD #46464, Las Vegas, Nevada), Sergey Rumyantsev (CRD #4009791, Registered Principal, Las Vegas, Nevada) and Antony Michel Santos (CRD #3239243, Registered Principal, Las Vegas, Nevada) submitted an Offer of Settlement in which the firm was censured and fined \$100,000, of which \$100,000 was joint and several with Santos and \$75,000 was joint and several with Rumyantsev, and required to hire an independent consultant to review the firm's policies, controls, systems, procedures and training relating to the firm's ability to comply with the Bank Secrecy Act, NASD Rule 3011 and other anti-money laundering (AML) statutes and regulations, and all rules and regulations related to its participation in private offerings. The firm was also ordered not to participate in any private offering for 30 days following the effective settlement date, and not to accept or hold customer securities until it certifies to NASD that it has adopted and implemented recommendations the consultant made in the initial written report. Rumyantsev and Santos were each censured, suspended from association with any NASD member in all principal capacities for three months and required to complete 16 hours of AML training each year for a two-year period, 16 hours within six months after the settlement's effective date. Without admitting or denying the allegations, the firm, Rumyantsev and Santos consented to the described sanctions and to the entry of findings that the firm, acting through Rumyantsev and Santos, failed to adequately implement and enforce AML procedures, and the firm failed to adequately perform due diligence, file Suspicious Activity Reports (SARs) or cease trading in multiple accounts a public customer of the firm owned and controlled.

The findings stated that the respondents were aware, or should reasonably have been aware, of "red flags" that should have triggered the firm's AML obligations. The findings also stated that the firm, acting through Santos, participated in private placement distributions of securities for which the memoranda represented

that the offerings were on a best efforts "part or none" basis, and failed to properly escrow purchasers' funds in a segregated account until the minimum contingency had been satisfied. The findings also stated that the firm caused the release of funds before satisfaction of the contingency to sell the minimum amount of securities through *bona fide* transactions to non-affiliated investors, thereby rendering there presentations in the memoranda false and misleading. NASD found that the firm, acting through Santos, failed to timely report written customer complaints to NASD, and failed to timely report the existence of conditions that required disclosure within 10 business days after the firm knew, or should have known, of the existence of the conditions. NASD also found that Santos failed to ensure that the firm establish and maintain an effective supervisory system, including adequate written procedures, reasonably designed to achieve compliance with federal securities laws, regulations and NASD rules relating to contingency offerings and reporting requirements.

Santos' suspension in any principal capacity is in effect from April 16, 2007, through July 15, 2007. Rumyantsev's suspension in any principal capacity will be in effect from July 17, 2007, through October 16, 2007. (NASD Case #E0220040112-01)

## Firms Fined

**American Enterprise Investment Services, Inc. (CRD #26506, Minneapolis, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it began conducting non-purpose stock borrowing, and the amounts associated with the borrowing were inappropriately included as debits in the firm's reserve formula calculations. The findings stated that the firm's error resulted in deficiencies in its Special Reserve Bank Account for the Exclusive Benefit of Customers. (NASD Case #20050014557-02)

**Banc of America Securities LLC (CRD #26091, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$56,500 and required to revise its written supervisory procedures and supervisory enforcement

with respect to registration, Securities and Exchange Act (SEC) Rule 11Ac1-6, short sales, bid test, and books and records. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to accept or decline transactions in eligible securities in the Automated Confirmation Transaction System (ACT) within 20 minutes after execution. The findings stated that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in NASDAQ National Market (NNM), NASDAQ SmallCap (SC) securities and OTC equity securities through ACT. The findings also stated that the firm failed to enforce its written supervisory procedures for trade reporting and failed to designate last sale reports of transactions in OTC equity securities executed outside normal market hours as ".T" through ACT. The findings also included that the firm transmitted reports that contained inaccurate, incomplete or improperly formatted data to the Order Audit Trail System (OATS), effected short sales in certain securities for the firm's proprietary account and failed to make/annotate an affirmative determination that the firm could borrow the securities or otherwise provide for delivery of the securities by settlement date. NASD found that the firm executed short sale orders and failed to properly mark the order tickets as short for those orders, and failed to provide written notification disclosing to its customers its correct capacity in the transaction, that transactions were executed at an average price and that the firm was a market maker. NASD also found that the firm failed to report the correct symbol indicating whether transactions were a buy, sell, sell short, sell short exempt or cross for transactions in eligible securities to ACT. In addition, NASD determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning registration, SEC Rule 11Ac1-6, short sales, bid test, and books and records. (NASD Case #2005000639-01)

**BNY Convergex Execution Solutions LLC (CRD #35693, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports that contained inaccurate, incomplete or improperly formatted data to OATS. The findings stated that the firm reported Route or

Combined Order/Route Reports to OATS that the OATS system was unable to link to the related order routed to the NASDAQ Exchange due to inaccurate, incomplete or improperly formatted data. (**NASD Case #20050002074-01**)

**BTIG, LLC (CRD #122225, San Francisco, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted and executed unsolicited customer orders to purchase and sell options, and failed to timely submit an application for NASD approval of this material change in business. The findings stated that the firm's written supervisory procedures were not reasonably designed to achieve compliance with rules applicable to its options business. (**NASD Case #20060039749-01**)

**C.E. Unterberg, Towbin, LLC (CRD #24790, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$19,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it incorrectly reported riskless principal transactions in NNM securities to the NASDAQ Market Center (NMC), incorrectly designated the capacity of the transactions as principal and incorrectly reported the price of riskless principal transactions in NNM securities to the NMC. The findings stated that the firm failed to report the correct symbol indicating whether transactions were a buy, sell, sell short, sell short exempt or cross for transactions in eligible securities to the NMC, and incorrectly reported a last sale report of a stock transfer from its proprietary desk to its market making desk to the NMC. The findings also stated that the firm incorrectly reported riskless principal transactions in last sale reports of transactions in OTC equity and OTC Bulletin Board (OTCBB) securities through the NMC. The findings also included that the firm, when it acted as principal for its own account, failed to provide written notification disclosing to its customers that it was a market maker in each security and that transactions were executed at an average price. NASD found that the firm failed to show the correct entry time and the terms and conditions on brokerage order memoranda. (**NASD**

**Case #20050003967-01**)

**Corby Capital Markets, Inc. (CRD #7165, Boston, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$11,000 and required to revise its written supervisory procedures with respect to MSRB Rule G-14. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information about transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) within 15 minutes of trade time in the manner prescribed by MSRB Rule G-14 RTRS procedures and the RTRS Users Manual. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with MSRB Rule G-14. (**NASD Case #20050021861-01**)

**Deutsche Bank Securities, Inc. (CRD #2525, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$45,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted customer short sale orders from single and multiple accounts and, for each order, failed to make/annotate an affirmative determination that the firm would receive delivery of the security on the customer's behalf, or that the firm could borrow the security on the customer's behalf for delivery by settlement date. The findings stated that the firm failed to report customer transactions in municipal securities to the MSRB within 15 minutes of the execution time. The findings also stated that the firm failed to enforce its written supervisory procedures, which specified that the designated supervisor was responsible for reviewing daily all exceptions generated for instances in which the Securities Lending Department did not have a corresponding locate or the number of shares exceeded the locate. (**NASD Case #20041000088-01**)

**Essex Financial Services, Inc. (CRD #127549, Essex, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000 and required to review its procedures regarding the preservation of electronic mail communications for compliance with federal securities laws, regulations and NASD rules. Without admitting or denying the findings,

the firm consented to the described sanctions and to the entry of findings that it failed to maintain and preserve all of its electronic communications as SEC Rule 17a-4 requires. (NASD Case #2006003916101)

**Fifth Third Securities, Inc. (CRD #628, Cincinnati, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed customer transactions in municipal securities that were not reported to the MSRB within 15 minutes of the execution time. Some transactions were reported with incorrect execution times and others were reported to the MSRB in error. The findings stated that the firm failed to timely amend Forms U4 to disclose customer complaints and failed to timely file Forms G-36 Official Statement (OS) with the MSRB. (NASD Case #E8A2005007701)

**Geneos Wealth Management, Inc. (CRD #120894, Denver, Colorado)** submitted an Offer of Settlement in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it permitted a statutorily disqualified person to function as an associated person. NASD found that the firm failed to obtain fingerprints from that individual and submit them for identification and processing as SEC Rule 17f-2 required and failed to discover that the individual had previously been convicted of a felony. The findings stated that the firm permitted a statutorily disqualified individual to function as an associated person of the firm in contravention of NASD By-laws. (NASD Case #2005000863703)

**Hampton Securities (USA), Inc. (CRD #46816, Toronto, Ontario, Canada)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted customer short sale orders in securities and for each order failed to make/annotate an affirmative determination that the firm would receive delivery of the securities on the customer's behalf, or that the firm could borrow the securities on the customer's behalf for delivery by settlement date. (NASD Case #20050012335-01)

**KBC Financial Products USA, Inc. (CRD #46709, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to the NMC the correct symbol indicating whether transactions were a buy, sell, sell short, sell short exempt or cross for transactions in reportable securities. The findings stated that the firm failed to report to the NMC the correct symbol indicating whether the firm executed transactions in reportable securities in a principal or agency capacity, and failed to report the correct execution time to the NMC in a last sale report of a transaction in a designated security. The findings also stated that the firm failed to submit to the NMC, for the offsetting, "riskless" portion of "riskless" principal transactions in designated securities, either a clearing-only report with a capacity indicator of "riskless principal" or a non-tape, non-clearing report with a capacity indicator of "riskless principal." (NASD Case #20060058662-01)

**Knight Equity Markets, L.P. (CRD #38599, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$45,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to the NMC, on behalf of broker-dealers with which it had Qualified Service Representative (QSR) agreements, short sale transactions in eligible securities with a short sale modifier. The findings stated that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data, and failed to provide written notification disclosing to its customers that a transaction was executed at an average price. The findings also stated that the firm failed to report to the Trade Reporting Facility the correct symbol indicating whether transactions were a buy, sell or cross in last sale reports of transactions in designated securities, and incorrectly designated the capacity of the transactions as "agent." The findings also included that the firm failed to submit to the OTC Reporting Facility, for the offsetting, "riskless" portion of some "riskless" principal transactions in designated securities, either a clearing-only report with a capacity indicator of "riskless principal," or a non-tape, non-clearing report with a capacity indicator of "riskless principal." (NASD Case #20050013746-01)

**Knight Equity Markets, L.P. (CRD #38599, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$125,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report Reportable Order Events (ROEs) to OATS. The findings stated that the firm submitted reports with respect to equity securities traded on the NASDAQ Stock Market to OATS that were not in the NASD-prescribed electronic form and were repairable. The findings stated that the OATS system rejected the subject reports and notice of such rejection was made available to the firm on the OATS Web site, but the firm did not correct or replace any of the reports. The findings also stated that the firm made available a report on the covered orders in national market system securities that it received for execution from any person that included inaccurate information as to the canceled shared data for an order type/size category and inaccurate information as to the amount of executed shares for another order type/size category. The findings also included that the firm failed to provide NASD with accurate and complete information regarding the enforcement of its supervisory system and written procedures in connection with supervisory reviews in response to an NASD request. (NASD Case #20050006052-01)

**Maxim Group LLC (CRD #120708, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,000 and required to revise its written supervisory procedures regarding NASD Rule 6440, SEC Rules 605 and 606, riskless principal trading, crossing of orders, "regular and rigorous" review, three quote rule, reporting of riskless principal trades, ensuring trades reported on the firm's behalf were accurately reported, affirmative determination, correctly marking and reporting trades as long, short or short exempt, prohibitions on executing non-exempt short sales on a down tick, trading or quotation activity during trading halts, locking and/or crossing quotations, ensuring OATS data is consistent with NMC and/or TRACS, reporting the correct Routed Order ID, Chinese Walls, and books and records.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained inaccurate Routed Order IDs, and incorrectly submitted an Order Route Report to OATS when it

should have submitted a New Order Report. The findings stated that the firm failed to provide written notification disclosing to its customers its correct capacity in transactions and inaccurately provided written notification disclosing to its customers that transactions were executed at an average price. The findings also stated that the firm failed to establish, maintain and/or enforce adequate written supervisory procedures regarding NASD Rule 6440, SEC Rules 605 and 606, riskless principal trading, crossing of orders, "regular and rigorous" review, three quote rule, reporting of riskless principal trades, ensuring trades reported on the firm's behalf were accurately reported, affirmative determination, correctly marking and reporting trades as long, short or short exempt, prohibitions on executing non-exempt short sales on a down tick, trading or quotation activity during trading halts, locking and/or crossing quotations, ensuring OATS data is consistent with NMC and/or TRACS, reporting the correct Routed Order ID, Chinese Walls, and books and records. (NASD Case #20050013055-01)

**Maxim Group LLC (CRD #120708, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$18,500 and required to revise its written supervisory procedures regarding qualification of personnel, limit order display, limit order protection, "regular and rigorous" review, three quote rule, riskless principal transaction reporting, trade reporting, accepting or declining trades in a timely manner, reporting the correct indicator for sales transactions, tick test and submission of OATS data. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to show customer positions as long or short on brokerage order memoranda and brokerage order memoranda for listed securities. The findings stated that the firm executed short sale transactions and failed to report them to the NMC with a short sale modifier, and failed to provide its customers with written notification of its correct capacity in transactions. The findings also stated that the firm made a report available on the covered orders in national market system securities that it received for execution from any person that incorrectly disclosed the "Market Center Executed Shares" and the "Executed Away Shares," and could not demonstrate if the orders were covered or not covered. The findings also included that the firm failed to show the correct entry time and the terms and conditions on brokerage order memoranda.

NASD found that the firm failed to establish, maintain and/or enforce adequate written supervisory procedures regarding qualification of personnel, limit order display, limit order protection, "regular and rigorous" review, three quote rule, riskless principal transaction reporting, trade reporting, accepting or declining trades in a timely manner, reporting the correct indicator for sales transactions, tick test and submission of OATS data. (**NASD Case #20042000246-01**)

**OptionsXpress, Inc. (CRD #103849, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS. The findings stated that the firm submitted to OATS New Order Reports and related subsequent reports where the timestamp for the related subsequent report occurred prior to the receipt of the order, and as a result, the OATS system was unable to create an accurate, time-sequenced record from the receipt of the order through its resolution. (**NASD Case #20050005755-01**)

**Pacific Crest Securities, Inc. (CRD #6619, Portland, Oregon)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to correctly report the price to ACT (nka NMC) in last sale reports of transactions in NNM securities. The findings stated that the firm incorrectly reported to ACT transactions as riskless principal that the firm executed in a principal capacity, and failed to report a last sale report of a transaction in an OTCBB equity security. The findings also stated that the firm failed to report to ACT the correct symbol indicating whether the transaction was a buy, sell or cross in last sale reports of transactions in NNM securities, and reported cancellation reports of transactions in NNM securities it was not required to report. The findings also included that the firm failed, within 90 seconds of the decision to cancel the trade, to report cancellation reports of NNM securities to ACT. NASD found that the firm failed to report to ACT the correct symbol indicating whether the firm executed transactions in a principal, riskless principal or agency capacity, and incorrectly reported to ACT transactions as riskless principal that the firm executed in a principal

capacity. NASD also found that the firm transmitted reports to OATS that contained inaccurate "Capacity" and/or "Reporting Exception" data. (**NASD Case #20050003053-01**)

**Sterne, Agee & Leach, Inc. (CRD #791, Birmingham, Alabama)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit to the OTC Reporting Facility last sale reports of transactions in OTC equity securities and failed to designate some of the reports as late. The findings stated that the firm incorrectly designated last sale reports of transactions in OTC equity securities executed during normal market hours as ".T" to the OTC Reporting Facility. (**NASD Case #20050026995-01**)

**Stern Brothers & Co. (CRD #16325, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted Form G-36 Official Statement (OS) and Advanced Refunding Document (ARD) filings later than one business day after receipt of the final official statement from the issuer, and some forms included an incorrect date of sale. The findings stated that the firm failed to file a Form G-36 (ARD) for an offering. The findings also stated that the firm reported Trade Reporting and Compliance Engine (TRACE)-eligible transactions that were not reported within the required 15 minutes of execution, and some reports were inaccurate. The findings also included that the firm failed to report one TRACE-eligible transaction. (**NASD Case #20060039825-01**)

**Stifel, Nicolaus & Company, Incorporated (CRD #793, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it acted as an underwriter in primary offerings of municipal securities and failed to file G-36 forms with the MSRB in a timely manner. The findings stated that the firm failed to establish and maintain a supervisory

system reasonably designed to achieve compliance with MSRB Rule G-36 filing requirements. (**NASD Case #20060039884-01**)

**TD Ameritrade, Inc. (CRD #7870, Bellevue, Nebraska)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$32,500 and required to revise its written supervisory procedures concerning TRACE and OATS reporting, marking of order tickets and affirmative determinations. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 45 minutes of the execution time. The findings stated that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning TRACE, trade and OATS reporting, marking of order tickets and affirmative determinations reporting. (**NASD Case #20050001490-01**)

**Triad Advisors, Inc. (CRD #25803, Norcross, Georgia)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report corporate bond trades within the time period NASD Rule 6230 prescribes. The findings also stated that the firm failed to establish and maintain a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with NASD Rule 6230. (**NASD Case #2006003971501**)

**UBS Securities, LLC (CRD #7654, Stamford, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$27,500 and required to revise its written supervisory procedures concerning SEC Rules 605, 606, and maintenance and retention of books and records. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to adjust open orders. The findings stated that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. The findings also stated

that the firm failed to immediately display customer limit orders in NASDAQ securities in its public quotation, when each order was at a price that would have improved the firm's bid or offer in each security. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning SEC Rules 605, 606, and maintenance and retention of books and records. (**NASD Case #20050002993-01**)

**Vandham Securities Corp. (CRD #26258, Woodcliff Lake, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$30,000 and required to revise its written supervisory procedures concerning disclosure of order routing information, riskless principal trade reporting, trade reporting of sales transactions, soft dollar accounts and trading, and books and records requirements. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to correctly report riskless principal transactions in last sale reports of transactions in eligible securities through the NMC, and failed to report the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency capacity.

The findings stated that the firm failed to correctly report transactions on principal transactions in eligible securities to the NMC as media reported, and failed to report the correct symbol indicating whether it executed transactions in OTCBB and OTC equity securities in a principal or agency capacity to the NMC. The findings also stated that the firm failed to provide written notification disclosing the markup or markdown to its customers, and failed to provide written notification disclosing its correct capacity in a transaction to a customer. The findings also included that the firm reported one transaction through the NMC with the incorrect modifier, failed to report the cancellation of one transaction in eligible securities and failed to report the correct short sale indicator in transactions in eligible securities. NASD found that the firm failed to submit execution reports to OATS and transmitted reports to OATS that contained inaccurate, incomplete and improperly formatted data. NASD also found that the firm failed to provide written notification disclosing to its customers that transactions were executed at an average price; when it acted as principal for its own

account, the firm failed to disclose the correct reported trade price; and failed to make a report on its routing of non-directed orders in covered securities publicly available for a period of time. In addition, NASD determined that the firm failed to show the correct order receipt time, correct execution time, correct execution price, the terms and conditions on brokerage order memoranda, and failed to preserve for a period of not less than three years, the first two in an accessible place, brokerage order memoranda. Moreover, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning disclosure of order routing information, riskless principal trade reporting, trade reporting of sales transactions, soft dollar accounts and trading, and books and records requirements. (NASD Case #20042000169-01)

**Wedbush Morgan Securities Inc. (CRD #877, Los Angeles, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$18,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely file Forms U5. The findings stated that the firm's supervisory procedures regarding the timely filing of Forms U5 were not enforced. (NASD Case #E0220050169-01)

**W.R. Hambrecht + Co., LLC (CRD #45040, San Francisco, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$127,239, which includes disgorgement of \$77,239. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it underwrote an offering of common stock on a firm commitment basis and in an effort to meet a perceived regulatory minimum deal size, it submitted a bid to purchase 200,000 shares that had not been bid for in the auction without identifying itself as the bidder. The findings stated that the firm allocated shares for which it did not have orders to its market-making account and sold the shares the next day in the after-market at prevailing prices, thereby receiving \$77,239 in profits. The findings also stated that the preliminary prospectus did not disclose that the firm would or could submit a bid that indicated its intent to purchase shares in the auction, and the final prospectus did not disclose that the firm had sold the shares at prevailing market prices

and realized a profit on the transactions. NASD found that the firm engaged in conduct inconsistent with just and equitable principles of trade by submitting a bid in the live-auction and purchasing shares offered in the auction in a proprietary capacity without disclosure. Further, NASD found that the profit realized on the proprietary transactions constituted underwriting compensation that the firm failed to disclose. (NASD Case #E0120050083-02)

## Individuals Barred or Suspended

**Alan Nicholas Basile (CRD #1179455, Registered Representative, Greenville, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Basile reassociates with any NASD member following the suspension or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Basile consented to the described sanctions and to the entry of findings that, while employed at a bank affiliated with his member firm and in connection with a mortgage application, he falsified a copy of a public customer's canceled check by changing the date and number on the check to make it appear that it was the missing check needed to prove that the customer had been making regular payments on an existing credit account, and submitted it and other check copies to the retail credit sales department in order to process the loan application.

The suspension in any capacity is in effect from April 16, 2007, through October 15, 2007. (NASD Case #2006006249601)

**Mark William Bender (CRD #1364977, Registered Principal, Webster, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the findings, Bender consented to the described sanctions and to the entry of findings that he received \$1,000 from a public customer as a reward for the gains the customer realized in his brokerage account in violation of NASD Rule 2330(f), which prohibits registered representatives from sharing directly or indirectly in the profits in any customer account.

The suspension in any capacity was in effect from April 2, 2007, through April 16, 2007. (**NASD Case #2006005613701**)

**David Melville Berkowitz (CRD #19495, Registered Principal, Laredo, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Berkowitz consented to the described sanction and to the entry of findings that he failed to completely respond to NASD requests for documents and information. (**NASD Case #20060057634-01**)

**Howard Scott Bernstein (CRD #1636604, Registered Representative, Coral Springs, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any NASD member in any capacity for 120 days. Without admitting or denying the findings, Bernstein consented to the described sanction and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and obtaining approval from, his member firm.

The suspension in any capacity is in effect from April 2, 2007, through July 30, 2007. (**NASD Case #E072004077401**)

**Joe Desoto (CRD #2879888, Associated Person, Kissimmee, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Desoto willfully failed to disclose material facts on his Form U4 and failed to respond to NASD requests for information. (**NASD Case #2006004240501**)

**Charles Collingwood Fawcett IV (CRD #1576169, Registered Representative, Venetia, Pennsylvania)** was barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) imposed the sanction following appeal of an Office of Hearing Officers (OHO) decision. The sanction was based on findings that Fawcett failed to provide information and on-the-record testimony that NASD requested.

This decision has been appealed to the SEC, and the sanction is in effect pending consideration of the appeal. (**NASD Case #C9A20040024**)

**Mark Steven Fineberg (CRD #1344873, Registered Representative, Newtown Square, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Fineberg reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Fineberg consented to the described sanctions and to the entry of findings that he engaged in the sale of annuity contracts on an insurance company's behalf and failed to provide prompt written notice to his member firm.

The suspension in any capacity is in effect from April 16, 2007, through July 15, 2007. (**NASD Case #2006006568801**)

**Newton Eduardo Gomez (CRD #4443260, Registered Representative, Fort Lee, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before Gomez reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Gomez consented to the described sanctions and to the entry of findings that as a representative of a bank affiliated with his member firm, he provided false information to a mortgage company in that he substantially overstated the amount of funds a bank customer had in his checking account and misrepresented the date on which the account was opened. The findings stated that Gomez submitted the falsified document to the mortgage company for processing.

The suspension in any capacity is in effect from April 2, 2007, through January 1, 2008. (**NASD Case #2006006511501**)

**Jordan John Hanson (CRD #4006058, Registered Representative, Appleton, Wisconsin)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Hanson reassociates with any NASD member following the suspension, or before his

firm requests relief from any statutory disqualification. Without admitting or denying the findings, Hanson consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on his Form U4.

The suspension in any capacity is in effect from April 2, 2007, through April 1, 2008. (**NASD Case #2006005382101**)

**Cheryl Rose Hayes (CRD #4361800, Registered Representative, Lewisburg, West Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Hayes reassociates with any NASD member following the suspension, or before her firm requests relief from any statutory disqualification. Without admitting or denying the findings, Hayes consented to the described sanctions and to the entry of findings that she received a check from a public customer for investment purposes, created a fictitious account statement purporting to show that she had opened an account for the customer, and had invested the funds. The findings stated that Hayes faxed the fictitious statement to an official at her member firm who, not knowing it was false, provided the statement to the customer.

The suspension in any capacity is in effect from April 16, 2007, through October 15, 2007. (**NASD Case #2006007447701**)

**Karen Jean Hill (CRD #1018669, Registered Representative, Saginaw, Michigan)** was suspended from association with any NASD member in any capacity for six months. Hearing Panel costs must be paid if Hill seeks to return to the securities industry. The sanction was based on findings that Hill created false documents and submitted them to her member firm by having public customers sign blank switch forms that she completed with the correct surrender charges and submitting them to her firm as if the customers had executed the completed switch forms.

The suspension in any capacity is in effect from March 19, 2007, through September 18, 2007. (**NASD Case #C8A20050060**)

**Ronald Hilyer Jr. (CRD #4817856, Registered Representative, Okeechobee, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Hilyer consented to the described sanction and to the entry of findings that he caused the purchase and sale of a securities position to be executed in a public customer's account without the customer's prior authorization or consent, and without having discretionary power over the account. The findings stated that Hilyer failed to respond to NASD requests for information. (**NASD Case #2006004727801**)

**Brian Stuart Hirsch (CRD #4770599, Registered Representative, Miami Beach, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 18 months, and ordered to requalify by exam as a general securities representative (Series 7) within 90 days of becoming reassociated with any NASD member in any capacity. If Hirsch fails to requalify within 90 days, he will be automatically suspended from association with any NASD member in any capacity until he requalifies. The fine must be paid before Hirsch reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Hirsch consented to the described sanctions and to the entry of findings that at the request of institutional public customers, he provided them with letters that contained false and misleading representations to the effect that each of the institutions maintained the required collateral to issue credit facilities in the amount of \$130 million. The findings stated that Hirsch failed to verify deposit of funds prior to sending the letters, knowing that the institutions planned to use the letters to secure funds for investment in venture capital projects. The findings also stated that Hirsch knew that the institutions had no funds or securities in their accounts at his member firm. The findings also included that Hirsch neglected to obtain prior approval of the correspondence from a principal at his firm when he knew, or should have known, that prior approval of outgoing correspondence was required pursuant to firm procedures.

The suspension in any capacity is in effect from April 16, 2007, through October 15, 2008. (NASD Case #2005002601001)

**Gary Evert Hirth (CRD #2830464, Registered Representative, Phoenix, Arizona)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Hirth consented to the described sanction and to the entry of findings that he willfully failed to disclose material information on his Form U4. The findings stated that Hirth functioned as a member firm's associated person and engaged in a securities business even though he was statutorily disqualified. The findings also stated that Hirth failed to respond to an NASD request for information and documents. (NASD Case #2006005683701)

**Kenneth T. Jones (CRD #4938185, Associated Person, Riverdale, Illinois)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Jones failed to respond to NASD requests for information. The findings stated that Jones failed to disclose material information on his Form U4. (NASD Case #2005001362601)

**John David Kaweske (CRD #2309807, Registered Principal, Miami, Florida)** was fined \$140,000 and barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that Kaweske failed to promptly return investor funds after an offering closed without meeting its sales contingency, and failed to establish an escrow account for the contingency offering. The findings stated that Kaweske made fraudulent misrepresentations in connection with the purchase and sale of preferred stock. The findings also stated that Kaweske willfully failed to disclose material information on his Form U4. (NASD Case #C0720040042)

**Jason Michael Korn (CRD #3105666, Registered Representative, Gainesville, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Korn consented to the described sanction and to the entry of findings that he forged public customers' signatures on insurance applications and related documents. The findings stated that Korn made

unauthorized purchases of mutual funds in customer accounts. (NASD Case #2006004295201)

**John Christian Krudop (CRD #2376067, Registered Representative, Ballwin, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for six weeks. Without admitting or denying the findings, Krudop consented to the described sanctions and to the entry of findings that he placed large on-open orders through the NASDAQ Opening Cross through SuperMontage to create a buy or sell imbalance that would exert pressure on the security's share price, then he placed transactions through an Electronic Communications Network (ECN) on the opposite side of the imbalance he had created to obtain an advantageous price that would not have been available but for his entry of a large on-open order. The findings also stated that upon receiving execution of his order(s), Krudop would cancel the subject orders prior to the time after which such orders could not be canceled.

The suspension in any capacity was in effect from April 2, 2007, through May 11, 2007. (NASD Case #20050034677-01)

**Timothy John Lane (CRD #2215044, Registered Representative, Eugene, Oregon)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Lane borrowed \$5,000 from a public customer in contravention of his member firm's written procedures that prohibit employees from borrowing or otherwise obtaining any customer funds for personal use or investment. The findings stated that Lane failed to respond to NASD requests for information. (NASD Case #20050019203-01)

**Randall Kevin Lenz (CRD #3145974, Registered Representative, Mattawan, Michigan)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Lenz reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the allegations, Lenz consented to the described sanctions and to the entry of findings that he borrowed \$3,500 from a public customer in contravention of his member firm's written procedures

that prohibit borrowing money or securities from a customer.

The suspension in any capacity was in effect from April 16, 2007, through April 27, 2007. (**NASD Case #2005003138001**)

**Charlie Harn Littlejohn Jr. (CRD #1210719, Registered Representative, Dunedin, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Littlejohn reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Littlejohn consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on his Form U4.

The suspension in any capacity is in effect from April 16, 2007, through May 25, 2007. (**NASD Case #2006006008801**)

**Vikram S. Manhas (CRD #2518451, Registered Representative, New York, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Manhas had a public customer unknowingly sign documents to open a securities account at another broker-dealer, transferred \$240,000 from the customer's old account to the new account and submitted false documents to the new broker-dealer to transfer the customer's assets to Manhas' personal account. The findings stated that Manhas sold the assets and withdrew the proceeds from his account, thereby converting the customer's funds to his own use and benefit. The findings also stated that Manhas submitted falsified documents to a member firm in furtherance of his scheme to convert the customer's assets. The findings also included that Manhas failed to respond to NASD requests for information and failed to appear for an NASD on-the-record interview. (**NASD Case #20050027081-01**)

**James W. McCann (CRD #4670752, Registered Representative, Sioux Falls, South Dakota)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings,

McCann consented to the described sanction and to the entry of findings that he engaged in outside business activities and failed to notify his member firm, in writing, of the activity and that he would be compensated for his services. The findings also stated that McCann failed to respond to an NASD request to appear for an on-the-record interview. (**NASD Case #20060045919-01**)

**Brian Thomas McGrail (CRD #1945132, Registered Representative, Louisville, Kentucky)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before McGrail reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the allegations, McGrail consented to the described sanctions and to the entry of findings that he failed to timely amend his Form U4 to disclose material information.

The suspension in any capacity is in effect from March 19, 2007, through May 17, 2007. (**NASD Case #2005003634401**)

**Ralph Merhi (CRD #3094962, Registered Principal, Boca Raton, Florida)** was barred from association with any NASD member in any capacity and ordered to pay \$28,454, plus interest, in restitution. The NAC imposed the sanctions following an appeal of an OHO decision. The sanctions were based on findings that Merhi traded excessively in a public customer's account and exercised discretion in the account without the customer's written authority, and without his member firm's approval of the account as discretionary. (**NASD Case #E072004044201**)

**Stephen Paul Miller (CRD #2007485, Registered Principal, Rockland, Maine)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Miller consented to the described sanction and to the entry of findings that he effected an unauthorized mutual fund transaction by forging a public customer's signature on a new account application, a mutual fund disclosure and authorization form, an Individual Retirement Account (IRA) application, and a request for transfer of assets. (**NASD Case #2006006197301**)

**Penny Dorton Montalvo (CRD #2996228, Registered Representative, Winter Springs, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Montalvo consented to the described sanction and the entry of findings that she made improper use of public customers' funds in that she notarized what was purported to be the customers' signatures on a Letter of Authorization (LOA) requesting a \$1,000 wire transfer from the customers' account to a bank account in the name of Montalvo's family member, without the customers' authorization. The findings stated that Montalvo failed to appear for an NASD on-the-record interview. (**NASD Case #2006004558801**)

**Kelly Irene O'Brien (CRD #2901568, Registered Representative, Ardmore, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the findings, O'Brien consented to the described sanction and to the entry of findings that she submitted expense reports to her member firm in which she had forged her supervisor's name. (**NASD Case #2006007054301**)

**Klaus Alois Robert Offenbacher (CRD #1280108, Registered Principal, Itasca, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for 90 days with credit to be given for a 60-day suspension without pay his member firm imposed. Without admitting or denying the findings, Offenbacher consented to the described sanctions and to the entry of findings that he knowingly and intentionally, artificially increased the market price of a stock in an attempt to comply with the provisions of SEC Rule 10b-18 and still execute a cross transaction between the issuer and the seller at the negotiated price.

The suspension in any capacity is in effect from April 16, 2007, through May 15, 2007. (**NASD Case #20060063414-01**)

**Dallas Wilbur Oudekirk (CRD #2612882, Registered Representative, Rochester, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Oudekirk reassociates

with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Oudekirk consented to the described sanctions and to the entry of findings that he failed to timely respond to NASD requests for information.

The suspension in any capacity is in effect from April 16, 2007, through July 15, 2007. (**NASD Case #20060060671-01**)

**Phillip Raymond Pereira Jr. (CRD #3040998, Registered Principal, Cheshire, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Pereira reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Pereira consented to the described sanctions and to the entry of findings that in connection with a funds transfer a public customer authorized, he signed the public customer's name on a rollover request form without the customer's knowledge or authorization.

The suspension in any capacity is in effect from April 16, 2007, through July 15, 2007. (**NASD Case #2006006759301**)

**Jimmy Poma (CRD #5088147, Registered Representative, Passaic, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Poma consented to the described sanction and to the entry of findings that he improperly waived overdraft bank fees on his personal checking account at his member firm's affiliate bank. The findings stated that Poma had not been authorized and/or was otherwise not entitled to those waivers. (**NASD Case #2006006767601**)

**Jeremy D. Price (CRD #4735115, Registered Representative, Gulf Breeze, Alabama)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Price consented to the described sanction and to the entry of findings that he fraudulently negotiated blank

bank checks and converted \$290 from the bank for his own use and benefit without the bank's knowledge or consent. (NASD Case #2006005938101)

**William Frederick Ross (CRD #1459870, Registered Principal, Spokane, Washington)** submitted an Offer of Settlement in which he was fined \$50,000, suspended from association with any NASD member in a principal capacity for one year and required to complete 25 hours of AML continuing education within 12 months of becoming associated with any NASD member firm. Without admitting or denying the allegations, Ross consented to the described sanctions and to the entry of findings that he failed to establish, maintain and enforce written procedures reasonably designed to supervise his member firm's wholesale trading and market making business and its registered representatives' actions. The findings stated that Ross failed to establish and maintain an adequate supervisory system reasonably designed to achieve compliance with federal securities laws, regulations and NASD rules to adequately supervise the trading and market making activity the firm conducted. The findings also stated that Ross failed to adequately review a representative's trading activities and ignored or failed to identify red flags associated with the representative's manipulative trading. The findings also included that Ross failed to provide adequate AML training for appropriate personnel and failed to provide for independent testing for AML compliance by member personnel or a qualified outside party. NASD found that because Ross failed to monitor and analyze manipulative trading, he did not further investigate suspicious activity to determine if he should file an SAR to report suspicious transactions.

The suspension in a principal capacity is in effect from April 16, 2007, through April 15, 2008. (NASD Case #2005000094001)

**Rooney Arun Sahai (CRD #1551326, Registered Representative, Ridgewood, New Jersey)** was fined \$5,000 and suspended from association with any NASD member in any capacity for two years. The SEC sustained, in part, sanctions the NAC imposed following the appeal of an OHO decision. The sanctions were based on findings that Sahai failed to respond, fully and timely, to NASD requests for information and documents. The findings also stated that Sahai purchased a variable annuity on a public customer's behalf without the customer's prior knowledge, authorization or consent.

The suspension in any capacity is in effect from January 5, 2007, through January 4, 2009. (NASD Case #C9B20020032)

**James Manner Schrack II (CRD #1220751, Registered Principal, Mansfield, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Schrack consented to the described sanction and to the entry of findings that he misappropriated \$280,000 that belonged to mutual fund shareholders. The findings also stated that Schrack failed to respond to NASD requests for information and failed to appear for an NASD on-the-record interview. (NASD Case #2006004517101)

**Kenneth Christopher Shelley (CRD #4478307, Registered Representative, Hattiesburg, Mississippi)** was barred from association with any NASD member in any capacity. The NAC imposed the sanction following an appeal of an OHO decision. The sanction was based on findings that Shelley attempted to cheat on the Series 24 examination and failed to comply with NASD Rules of Conduct governing securities examinations. (NASD Case #C3A20050003)

**Lonnie Richard Shupak (CRD #4444418, Registered Representative, Hillsborough, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Shupak consented to the described sanction and to the entry of findings that he opened several money market accounts for public customers of a bank affiliated with his member firm, accessed the bank's electronic records system and changed a code in the records to show that the money market accounts had been opened as checking accounts. The findings stated that Shupak was entitled to receive more compensation from the bank for opening a checking rather than a money market account. (NASD Case #2006006141401)

**Billy Joe Sipes (CRD #2045588, Registered Principal, Bardstown, Kentucky)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Sipes failed to respond to NASD requests for information. The findings stated that Sipes willfully failed to amend his Form U4. (NASD Case #2005001575801)

**Jeffrey Arthur Smith Sr. (CRD #4360471, Registered Representative, Sinking Spring, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any NASD member in any capacity for one month. In light of Smith's financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Smith consented to the described sanction and to the entry of findings that he engaged in outside business activities, for compensation, without providing prompt written notice to his member firm.

The suspension in any capacity was in effect from April 2, 2007, through May 1, 2007. (**NASD Case #2005002264701**)

**Victoria Crawford Smotherman (CRD #4479059, Registered Representative, Wooster, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Smotherman consented to the described sanction and to the entry of findings that, while attempting to influence public customers to purchase shares of mutual funds and variable annuities, she made misrepresentations to the customers that there would be no fees or sales loads in connection with the purchase and sale of the securities, that the principal was guaranteed and that the securities had a guaranteed return of at least 5 percent. (**NASD Case #2006003897501**)

**Timothy John Stabile (CRD #1940043, Registered Representative, Ottumwa, Iowa)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Stabile consented to the described sanction and the entry of findings that he failed to respond to NASD requests for information. (**NASD Case #20060041870-01**)

**Michael Joseph Stefano (CRD #2209407, Registered Representative, Marysville, Washington)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Stefano reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the

findings, Stefano consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4.

The suspension in any capacity is in effect from April 2, 2007, through July 1, 2007. (**NASD Case #20060053252-01**)

**Maria Teresa Taussi (CRD #4263416, Registered Representative, Kew Gardens, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Taussi converted \$80,000 from her member firm for her own use and benefit by cashing checks that were issued to "Cash" and falsely recording that these checks had been paid to vendors. The findings also stated that Taussi failed to respond to NASD requests for information and documents. (**NASD Case #2005002322601**)

**Neilson Ojastro Valdejueza (CRD #2404251, Registered Representative, San Francisco, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Valdejueza consented to the described sanction and to the entry of findings that he deposited cash in varying amounts to his personal bank account at an automated teller machine (ATM) and each time falsely represented the amount of the deposit by adding zeros to the deposit amount when entering it on the ATM keypad. The findings stated that Valdejueza intentionally entered the false deposit amounts knowing that the bank would credit them to his account and that he would have access to funds to which he was not entitled until the bank reconciled the false entries. (**NASD Case #20060057612-01**)

**Christopher Henry Webb (CRD #1867233, Registered Representative, Camden Wyoming, Delaware)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 15 months. The fine must be paid before Webb reassociates with any NASD member following the suspension, or before his firm requests relief from any statutory disqualification. Without admitting or denying the findings, Webb consented to the described sanctions and to the entry of findings that he provided false information regarding public customers on their insurance applications and forged

their signatures on the insurance applications and related documents.

The suspension in any capacity is in effect from April 2, 2007, through July 1, 2008. (NASD Case #2006004691601)

## Individual Fined

**Robert Eugene Strong (CRD #3079588, Registered Principal, New York, New York)** was fined \$10,000. The NAC imposed the sanction following an appeal of an OHO decision. The sanction was based on findings that Strong failed to supervise a research analyst who traded securities contrary to the recommendations contained in various research reports and traded during the blackout periods. The findings further stated that Strong failed to include or included insufficient or inaccurate required disclosures in research reports and failed to file timely an annual attestation of supervisory procedures for research analysts.

This decision has been appealed to the SEC and the sanction is not in effect pending consideration of the appeal. (NASD Case #C0420050005)

## Complaints Filed

NASD issued the following complaints. Issuance of a disciplinary complaint represents NASD's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

**Stephen Ira Golden (CRD #224150, Registered Principal, Livingston, New Jersey) and Richard Francis Kresge (CRD #729077, Registered Principal, Bayshore, New York)** were named as respondents in an NASD complaint alleging that in connection with the purchase and sale of securities, and by the use of means or instrumentalities of interstate commerce, Golden and Kresge directly or indirectly, knowingly or recklessly, employed devices, schemes or artifices to defraud and engaged in acts, practices, or courses of business that operated or would operate as a fraud or deceit upon

any person. The complaint alleges that Golden and Kresge knowingly or recklessly participated in a manipulative scheme whose effect was to inflate the price of securities and to create the false appearance of active trading volume in the market in the securities by engaging in transactions at times and prices with contra parties, as a municipal bond trader directed. The complaint also alleges that by engaging in the pre-arranged, circular wash trades of the securities, Golden and Kresge caused reports to be published in which they had reason to believe that they were not *bona fide* transactions, and were in furtherance of a fraudulent, deceptive or manipulative purpose. The complaint further alleges that Golden and Kresge aided and abetted the municipal bond trader's fraudulent scheme to park and to manipulate the price of the securities. (NASD Case #2005000323905)

**Gerald Jamieson Kesner (CRD #2337113, Registered Representative, Littleton, Colorado)** was named as a respondent in an NASD complaint alleging that he recommended that public customers join an investor group he assembled and acquire stock by pledging equity in their home and securities held at his member firm as collateral for the loan the group would obtain to finance the acquisition. The complaint alleges that Kesner knew, or should have known, that his recommendation to the customers was unsuitable in light of their financial circumstances and needs, and that their risk was disproportionate to that of other investors. The complaint also alleges that Kesner omitted material information to public customers in connection with the acquisition of shares of the stock. (NASD Case #2005001729501)

**Mike A. Ketcham (CRD #4945897, Registered Representative, Palatine, Illinois)** was named as a respondent in an NASD complaint alleging that he exercised control over a bank customer's account and used the customer's personal information to open an account at his member firm's bank affiliate under a different name. The complaint alleges that Ketcham reversed overdraft fees on these accounts that were never actually charged, thus creating positive balances in each account, and withdrew \$7,141 from the accounts without the bank's knowledge or consent and used the funds for his own personal use. The complaint also alleges that Ketcham failed to respond to NASD requests for information. (NASD Case #2006006434701)

Shane Alexander Selewach (CRD #2936484, Registered Principal, Hyannis, Massachusetts) was named as a respondent in an NASD complaint alleging that he misused public customers' funds by depositing \$71,000 intended for investment purposes into an account he controlled and used the funds for various personal expenses. The complaint alleges that Selewach borrowed \$158,500 from public customers, contrary to his member firm's written supervisory procedures that specifically prohibit registered representatives from borrowing money from all customers, other than immediate family members. (NASD Case #2006005005301)

**Firm Expelled for Failure to Pay Fines and/or Costs in Accordance with NASD Rule 8320**

Gryphon Financial Securities Corp.  
Palm Beach, Florida  
(March 22, 2007)

**Firms Suspended for Failure to Supply Financial Information Pursuant to NASD Rule 9552**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

CAC Capital Corp.  
Dallas, Texas  
(March 9, 2007)

Cannondale Securities, LLC  
New York, New York  
(March 30, 2007)

Capital City Advisors, Inc.  
Atlanta, Georgia  
(March 9, 2007 – May 2, 2007)

The Reid Group LLC  
New York, New York  
(June 30, 2006 – December 13, 2006)

**Firms Suspended Pursuant to NASD Rule 9553 for Failure to Pay NASD Dues, Fees and Other Charges**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Great Eastern Securities, Inc.  
New York, New York  
(March 20, 2007)

Greenwich Global, LLC  
Wilton, Connecticut  
(March 5, 2007)

Paul L. Forchheimer & Co., Inc.  
New York, New York  
(March 19, 2007)

**Individuals Revoked for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320**

James Brendan Hanley  
Malden, Massachusetts  
(April 24, 2006)

William Edward Kassar Jr.  
Lattingtown, New York  
(March 22, 2007)

Richard Leaf Levardsen  
Patchogue, New York  
(April 24, 2006)

Israel Elias Lozada  
Chestnut Ridge, New York  
(April 24, 2006)

John F. Mangan Jr.  
Charlotte, North Carolina  
(April 24, 2006)

James Harold McKamy  
Richardson, Texas  
(April 24, 2006)

Blake Justin Shanaphy  
Hoboken, New Jersey  
(March 22, 2007)

**Joseph T. Tancredi**  
Brooklyn, New York  
(April 24, 2006)

**Reynolds Michael Verdiner**  
Brooklyn, New York  
(April 24, 2006)

**Younis Zubchevich**  
Royal Palm Beach, Florida  
(March 22, 2007)

**Individuals Barred Pursuant to NASD Rule 9552(h)**

**Robert Lawrence Benton**  
Clearwater, Florida  
(March 5, 2007)

**Luther Carl Cooper**  
New York, New York  
(March 12, 2007)

**Randall Scott Humphrey**  
Scottsdale, Arizona  
(March 14, 2007)

**John M. Meyers**  
Coram, New York  
(March 5, 2007)

**Individuals Suspended Pursuant to NASD Rule 9552(d)**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Eduardo Jesus Camejo**  
St. Petersburg, Florida  
(March 5, 2007)

**Warren Craig Coetzer**  
Fort Worth, Texas  
(March 26, 2007)

**Scott C. Dorenbusch**  
Albertville, Minnesota  
(March 13, 2007)

**William Anthony Kaso**  
Pembroke Pines, Florida  
(March 26, 2007)

**Alan Kreitman**  
West Palm Beach, Florida  
(March 7, 2007)

**Larry Joseph McKenney**  
Apopka, Florida  
(March 6, 2007)

**Frank Rocco Peperno**  
Old Forge, Pennsylvania  
(March 7, 2007)

**Michael Pica Jr.**  
Franklin Square, New York  
(March 26, 2007)

**Leon Andre Turner**  
Beaverton, Oregon  
(March 14, 2007)

**Individuals Suspended Pursuant to NASD Rule 9553 for Failure to Pay NASD Dues, Fees and Other Charges**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Lee Alexander Fisher**  
Naples, Florida  
(April 5, 2006)

**Nicholas Patrick Thompson**  
Hillsborough, New Jersey  
(August 7, 2006)

**Individuals Suspended Pursuant to NASD Rule 9554 for Failure to Comply with an Arbitration Award or Settlement Agreement**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Anthony Joseph Arcidiacono**  
Carlsbad, California  
(September 28, 2006)

**David Bradley Brooks**  
Lookout Mountain, Tennessee  
(December 20, 2005 – March 30, 2007)

**Brian Andrew Christensen**  
Bradenton, Florida  
(March 9, 2007)

**Trent David Feeney**  
Westerville, Ohio  
(March 2, 2007)

**Robert Patrick Hodgins**  
Oyster Bay, New York  
(March 17, 2006)

**Christopher Drury Johnson**  
Miami, Florida  
(January 3, 2007)

**David Aaron Jones**  
Chandler, Arizona  
(April 18, 2006 - April 25, 2006)

**John David Kaweske**  
Miami, Florida  
(March 1, 2007)

**Kevin John Lent**  
New City, New York  
(March 22, 2007)

**Sean Fitzgerald Mescall**  
Denver, North Carolina  
(March 22, 2007)

**Edward Francis Pellegrini**  
Richardson, Texas  
(September 27, 2005 – March 30, 2007)

**Camie Moen Quigley**  
Inver Grove Heights, Minnesota  
(July 31, 2006 – March 19, 2007)

**Nathaniel Brenamen Ramsey**  
Philadelphia, Pennsylvania  
(March 22, 2007)

**David Bryan Roberts**  
Cape Coral, Florida  
(March 22, 2007)

**David Seth Samalin**  
Greenwich, Connecticut  
(February 22, 2006 – March 19, 2007)

**Lee Anthony Siler**  
Longwood, Florida  
(August 10, 2005 – March 30, 2007)

**Jeffrey Steven Thomas**  
Monroe, Ohio  
(March 28, 2007)

**Samuel Tompkins Walter Jr.**  
Raleigh, North Carolina  
(March 28, 2007)

**Charles Norman Watson**  
Orlando, Florida  
(March 2, 2007)